IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 13TH JULY 2007 / 22ND ASHADHA 1929

CRP.No. 2477 of 2001

RCA.8/1997 of RENT CONTROL APPELLATE AUTHORITY, ALAPPUZHA.
RCP.10/1994 of RENT CONTROL COURT, ALAPPUZHA

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REVN. PETITIONER/APPELLANT/PETITIONER:

CICILIYAMMA, W/O ABRAHAM, OLICKAL
VEETTIL, KANJIRAPPILLY TALUK,
KOTTAYAM DISTRICT REP. BY HER POWER
OF ATTORNEY HOLDER JOSEPH, S/O MATHEW,
RESIDING AT KANDATHIL PURAYIDATHIL
FROM NELLIKUNNATHU, NEAR YMCA ALAPPUZHA.

BY ADV. SMT.C.G.BINDU
SMT.C.G.AJITHA

RESPONDENT/RESPONDENT/CR.PETITIONER:

NATESAN, S/O GOVINDAN, BUILDING NO.
16/345 (GOVINDA MOTORS) WEST OF
YMCA, PATTANI IDUKKU, ALAPPUZHA.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 13/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

C.R.P.No. 2477 of 2001

ORDER

Koshy, J.

This revision is filed by the landlady. She filed an application under Sections 11(2)(b), 11 (3), 11(4)(ii), 11(4)(iv) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act'). The Rent Control Court allowed the petition under Section 11(2)(b) of the Act, but dismissed the petition under Sections 11 (3), 11(4)(ii) and 11(4)(iv) of the Act. The tenant filed R.C.A.No.22/97 challenging the order of eviction passed under Section 11(2)(b) of the Act and that was allowed, as the admitted arrears of rent was paid. The appeal filed by the landlady was dismissed and hence this revision was filed.

2. The contention of the petitioner is that even though at the time of filing the petition for eviction she was employed in Malappuram and her husband was employed in Calcutta, she wanted the petition schedule building for own occupation, after reconstruction to a residential building. The petition was filed in 1994. Now, it is submitted that herself and her husband retired from service and they want to reside in Alappuzha, where, they have the petition schedule building, as she has no other residential building of her own. It is further submitted that the tenant has sub let the premises after filing the petition for eviction. It is not a ground stated in the eviction petition. It is the case of the tenant that at the time when the petition was filed, the petitioner was not in need of a residential house because she was working in Malappuram and her husband was working in Calcutta. The court below also noticed that only the Power of Attorney was examined and it was not established that the petitioner was in bona fide need. It is the case of the petitioner that

an IA was filed before the court to examine herself as a witness. But, that was not allowed. The courts below also found that it was not proved that the tenant has not done anything to reduce the material value and utility of the building. We are of the view that about thirteen years have passed after the filing of the petition. Subsequent events also have got very much relevance on the facts and circumstances of the case.

Therefore, we dismiss this revision without prejudice to the rights of the petitioner/landlady filing a fresh petition before the Rent Control Court taking all the grounds available to her on the date of filing the petition. In view of subsequent events, the impugned order is not a bar for filing fresh petition.

(J.B.Koshy, Judge)

13th July, 2007

(K.P.Balachandran, Judge)

tkv

J.B.Koshy & K.P.Balachandran, JJ.

C.R.P.No.2477 of 2001

ORDER

13th July, 2007